IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6231 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE AKIL KURESHI

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

A.P.M.C. THROUGH PRESIDENT

Versus

MUMABHAI SINDHABHAI BHARWAD

Appearance:

1. Special Civil Application No. 6231 of 2004

MR VC VAGHELA for Petitioner No. 1

MR PY DIVYESHVAR for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE AKIL KURESHI

Date of decision: 03/09/2004

ORAL JUDGEMENT

Rule. Learned advocate Mr.P.Y.Divyeshvar waives service of notice of rule on behalf of the respondent. At the joint request of the learned advocates appearing

for the parties, the petition is taken up for final disposal today.

2. In this petition, the petitioner has challenged the order dated 20th September 2002, by which the Labour Court, Surendranagar was pleased to allow the reference of the respondent-workman partially which was an ex-parte award. Though it is true that the notices of the proceedings were served on the petitioner, the petitioner has made sufficient grounds for its non-appearance before the Labour Court. Learned advocate for the respondent also does not seriously oppose the restoration of the reference before the Labour Court and its consideration on merits. He, however, submits that the workman is out of job since long and the petitioner be put to terms for setting aside the ex parte award.

3. Considering the situation and the submissions made, the award dated 20th September 2002 is set aside and the matter is remanded to the concerned Labour Court for fresh consideration on merits. Considering the fact that the award was passed in the year 2002, it is expected that the Labour Court will try to ensure disposal of the reference as far as possible within a period of six months from the date of receipt of a copy of this order.

4. In the result, the petition is allowed as aforesaid. Rule is made absolute accordingly. The petitioner shall pay cost of Rs.15,000/- (Rupees fifteen thousand) to the respondent.

(Akil Kureshi, J.)
(vjn)